

PATENT COOPERATION TREATY



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From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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PCT

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing
(day/month/year)

01 APR 2004

Applicant's or agent's file reference

11460WO.01

IMPORTANT NOTIFICATION

International application No.

PCT/US03/03779

International filing date (day/month/year)

07 February 2003 (07.02.2003)

Priority date (day/month/year)

08 February 2002 (08.02.2002)

Applicant

GRAPHIC PACKAGING CORPORATION

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US

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Form PCT/IPEA/416 (July 1992)

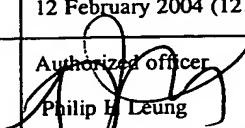
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 11460WO.01	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/03779	International filing date (<i>day/month/year</i>) 07 February 2003 (07.02.2003)	Priority date (<i>day/month/year</i>) 08 February 2002 (08.02.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): H05B 6/80; B65D 81/34 and US Cl.: 219/730, 732, 734, 762; 426/107, 234, 243; 99/DIG. 14		
Applicant GRAPHIC PACKAGING CORPORATION		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u> </u> sheets.</p> <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 		
Date of submission of the demand 13 August 2003 (13.08.2003)	Date of completion of this report 12 February 2004 (12.02.2004)	
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  Philip H. Leung Telephone No. (703) 308-0861	

Form PCT/IPEA/409 (cover sheet)(July 1998)

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I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☒ the description:
pages 1-49 as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the claims:
pages 50-78 as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the drawings:
pages 1-26 as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☐ the sequence listing part of the description:
pages NONE as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages None
- ☒ the claims, Nos. None
- ☒ the drawings, sheets/fig None

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. STATEMENT**

Novelty (N)	Claims <u>1-156</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>21-135 and 142-156</u>	YES
	Claims <u>1-20 and 136-141</u>	NO
Industrial Applicability (IA)	Claims <u>1-156</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-20 lack an inventive step under PCT Article 33(3) as being obvious over Brandberg et al (US 5,317,118), in view of Walters et al (US 5,217,768).

Brandberg et al discloses a microwave cooking device and method including a microwave package having a microwave interactive material 26 and an insulating material covering the food product from the oven environment except that the microwave interactive material does not surround the food as it uses a flat sheet of microwave susceptor adjacent the food (see figures 1-10 and col. 2, line 50 - col. 6, line 42). Walters et al shows a microwave package for microwave heating food including a microwave susceptor material completely surrounding the food to be heated (see Figures 2-11 and col. 4, line 34- col. 10, line 42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brandberg et al to surround the food completely with the microwave susceptor so that the entire food can be uniformly heated for a better cooked product, in view of the teaching of Walters et al. Clearly, to use a flat susceptor or a wrapping susceptor depends on the type of food being heated and the desired amount of browning effect on the food and would have been a matter of choices as taught by these two references. In regard to claims 8 and 9, Brandberg shows the claimed insulated microwave packaging material including superimposed inner and outer flexible materials 22, 24 forming a plurality of inflating chambers C that is the claimed pockets.

Claims 136-141 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Akervik (US 5,230,914).

Brandberg et al combined with Walters et al does not explicitly show the use of instructions printed on the food package to direct the consumer to cover the product before cooking in the microwave oven. Akervik shows that it is a routine practice in the art of microwave food packages to include instructions printed on the food packages to direct the consumer to cover the dish of food with a kitchen wrap material before placing the dish in the microwave oven (see col. 1, lines 20-26). It would have been obvious to an ordinary skill in the art to further modify Brandberg et al combined with Walters et al to print instruction on the food package to direct the consumer how to properly prepare the food product for microwave heating in order to obtain a better and consistent cooking result, in view of the teaching of Akervik.

Claims 21-135 and 142-156 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the insulating microwave packaging material including a microwave interactive material and a multiple substrates forming a pattern of closed cells as specifically set forth in claims 21, 22, 64, 65 and 107. In regard to claim 145, it is agreed that a microwave package including a carton and a pouch of microwave interactive material supported by the carton as claimed is not shown or suggested by the prior art. In regard to claim 149, the microwave cooking container having a first and second ends with an aperture, a microwave interactive body surrounding a food as specifically set forth in the claim is also not shown by the prior art.

Claims 1-156 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry, such as, for cooking and/or heating food product in a microwave oven.

----- NEW CITATIONS -----

US 5,230,914 A (AKERVIK) 27 July 1993, see col. 1, lines 20-26.